

**LETTER OPINION
2002-L-64**

November 7, 2002

Mr. Wayne P. Jones
Ransom County State's Attorney
PO Box 391
Lisbon, ND 58054-0391

Dear Mr. Jones:

Thank you for your request for my opinion on whether Ransom County may use money from its insurance reserve fund to pay for workers' compensation insurance.

Section 32-12.1-08, N.D.C.C., authorizes a political subdivision to establish an insurance reserve fund and levy a tax to provide those funds. A county is a political subdivision for the purposes of N.D.C.C. chapter 32-12.1. N.D.C.C. § 32-12.1-02(5)(a).

Section 32-12.1-07, N.D.C.C., only allows a political subdivision to protect against liability pursuant to N.D.C.C. ch. 32-12.1 by self-insurance or by purchasing insurance from an authorized insurance company. Workers' compensation insurance is neither self-insurance nor provided by an authorized insurance company.¹ Thus, a political subdivision may not purchase workers' compensation insurance under the authority of N.D.C.C. ch. 32-12.1. Accordingly, it is my opinion a political subdivision, including a county, may not use insurance reserve fund monies to pay workers' compensation insurance premiums.

Sincerely,

Wayne K. Stenehjem
Attorney General

sam/vkk

¹ The Workers Compensation Bureau is not an insurance company. See N.D.C.C. § 26.1-02-01. Rather, it is a state agency. See N.D.C.C. §§ 23-01.1-02, 54-60-06. The Bureau does however, have the authority to create an insurance company to provide additional workers' compensation coverage. See N.D.C.C. §§ 65-08.1-02 and 65-08.1-03.